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- Admitted in Hawaii
 Also admitted in Nevada
- ••• Also admitted in Illinois

October 30, 2013

Via Electronic Filing

National Labor Relations Board Office of Appeals 1099 14th Street, NW Washington, DC 20570

Re: NLRB Case No. 20-UC-115160

NLRB Case No. 32-UC-115418

Interim Appeal from Action of Regional Director of Region 20

Dear Office of Appeals:

The above identified UC Petitions were consolidated for a hearing in Region 20. The hearing involves Dignity Health & St. Francis Memorial Hospital in Region 20's jurisdiction and Dominican Hospital in Region 32's jurisdiction. The Respondent in both cases is Stationary Engineers Local 39, on whose behalf this Interim Appeal is taken.

At approximately 8:50 a.m. on October 29, an incident occurred in the lobby of 901 Market Street. Region 20's offices are on the fourth floor of 901 Market Street. This Interim Appeal does not concern who was right and who was wrong in that incident. It should suffice to say that no laws were broken. No persons were injured. No property was damaged. No representatives of the parties to the UC hearing were present other than the undersigned.

The hearing did not begin promptly at ten o'clock, the scheduled time for the hearing to occur. Prior to going on the record the undersigned was confronted by an individual who identified himself as Joseph Frankl, Regional Director of Region 20. Mr. Frankl instructed the undersigned to follow him into a private hallway. The undersigned did so. Mr. Frankl immediately began, in a loud voice, to berate the undersigned for my allegedly inappropriate conduct in the incident that occurred in the lobby. Mr. Frankl told me that I owed the security person an apology and that if anything like that ever occurred again I would be barred from coming to Region 20's offices. I immediately asked Mr. Frankl if before passing judgment he wanted to hear my version of what occurred. He said no, turned and swiftly walked away. I could not keep up with him and tried to tell him my version of what occurred. He told me he did not care and I, unfortunately, said "What kind of a putz are you?" He then turned on me and said, "That's it, you have to leave the building." I asked him what would happen to the hearing? He said, "We will postpone it." I then went into the hearing room and told my client that the hearing was being postponed. Immediately Mr. Frankl appeared and demanded that the reporter go on the record so that he could make

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a statement. He then stated that he was Joseph Frankl. I cannot recall all of the things that he stated, but it was to the effect of denying that he ever said the hearing would be postponed. I then asked for permission to make a statement on the record during which I stated in effect that Mr. Frankl was behaving in an unstable way and that he did tell me that the hearing was going to be postponed. Mr. Frankl then denied that he had done so and he left the room. After the hearing opened, I called to the attention of the Hearing Officer that this was a consolidated case involving both Region 20 and Region 32. I stated that I believed that Mr. Frankl was prejudiced against the interest of my client and against me and that I did not believe we could have a fair hearing from Mr. Frankl, who, after all, was the decision maker. My motion was denied. Consequently, I am making this Interim Appeal.

The rules and regulations of the National Labor Relations Board and specifically, 102.66(d)(1) prohibit misconduct at any hearing before a hearing officer or before the Regional Director or the Board. It is obvious that no misconduct occurred during the hearing or before the Regional Director or the Board. Consequently, the behavior of Mr. Frankl was inappropriate and revealed his personal bias and prejudice toward me and to the detriment of my client's interest.

For the foregoing reasons, it is hereby requested that the decision of the Hearing Officer to deny the motion to transfer the case back to Region 32 be reversed and that the NLRB order the hearing be conducted before a Regional Director or the representative of a Regional Director who has not openly expressed personal hostility toward the undersigned and his client.

Respectfully submitted,

WEINBERG, ROGER & ROSENFELD

Stewart Weinberg

SW:rfb opeiu 3 afl-cio(1)

Cc: Joseph Frankl, Regional Director, NLRB Region 20

Acting Regional Director, NLRB Region 32

Christopher Scanlan

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